1 2 3 4 5 UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WASHINGTON 6 7 UNITED STATES OF AMERICA, NO: 1:16-CR-2065-RMP 8 Plaintiff, ORDER DENYING DEFENDANT'S 9 MOTION TO DISMISS AND v. DENYING AS MOOT THE UNITED 10 JESSE ALLEN DAUENHAUER, STATES' MOTION IN LIMINE 11 Defendant. 12 13 BEFORE THE COURT are a motion to dismiss, ECF No. 95, filed by 14 Defendant Jesse Allen Dauenhauer, acting pro se¹, and a motion in limine 15 regarding self-authenticating documents, ECF No. 75, filed by the United States. 16 The Court heard argument on the motions at a pretrial conference on May 25, 17 ¹ Mr. Dauenhauer is represented by counsel. Generally the Court will not entertain 18 motions from a defendant who is acting pro se when defense counsel has appeared. 19 However, because of the nature of Mr. Dauenhauer's argument, the Court 20 considered his motion to dismiss. 21 ORDER DENYING DEFENDANT'S MOTION TO DISMISS AND

DENYING AS MOOT THE UNITED STATES' MOTION IN LIMINE ~ 1

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2017. Defendant was present and represented by CJA counsel Michael Lynch, although Defendant argued on his own behalf his motion to dismiss, as he had filed it independent of his attorney. The Government was represented by Assistant United States Attorney Thomas Hanlon. The Court has reviewed all relevant pleadings submitted by the parties, in addition to considering the oral argument presented, and is fully informed. This Order memorializes the Court's oral ruling on Defendant's motion to dismiss, and dismisses as moot the Government's motion in limine based on the representations by the Government at the pretrial conference.

Defendant's Motion to Dismiss

Defendant sought to dismiss this case on the following bases: (1) he was denied effective assistance of counsel by the first counsel appointed to represent him in this matter, Mr. Hoffman; (2) he was arrested on an unlawful warrant that was never received or returned; (3) the federal magistrate judge who issued the warrant lacked authority to do so; (4) the Court lacks venue because the Constitution requires a trial by judge; (5) Defendant's civil rights may be violated by this prosecution under 28 U.S.C. § 1983; and (6) the prosecution infringes on Defendant's right to bear arms. Defendant's arguments do not withstand scrutiny, and the Court finds that the authority relied on by the Government in opposing Defendant's motion, ECF No. 97, is determinative.

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Government's Motion in Limine re: Self-Authenticating Documents

At the pretrial conference on May 25, the parties submitted an "Agreed Stipulation to Evidentiary Matters," ECF No. 115, in which the parties stipulate regarding Defendant's predicate felony conviction and the interstate shipment of the firearms and ammunition at issue. The Government represented that the stipulation resolves the matter at issue in the Government's motion in limine.

Accordingly, IT IS HEREBY ORDERED that:

- 1. Defendant's *pro se* Motion to Dismiss, **ECF No. 95**, is **DENIED**; and
- 2. The Government's Motion in Limine re: Self-Authenticating Documents, **ECF No. 75**, is **DENIED AS MOOT**.

The District Court Clerk is directed to enter this Order and provide copies to counsel.

DATED May 26, 2017.

s/ Rosanna Malouf Peterson

ROSANNA MALOUF PETERSON

United States District Judge

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